

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3506 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

VASTUBHAI A VALA

Versus

RAJULA NAGAR PANCHAYAT

Appearance:

MR JJ YAJNIK for Petitioner
MR YV SHAH for Respondent No. 1

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 10/04/2000

ORAL JUDGEMENT

The case was called in the first half when learned counsel for the petitioner was found not present. Learned counsel for the respondent was present. However the case was adjourned for a short time for appearance of

learned counsel for the petitioner. This case is again taken up in the second half and on call neither the petitioner nor his counsel are found in the Court. This case is pending from 1990, and therefore, I am of the view that the matter should be decided on merit.

Present petition has been filed by the petitioner praying to quash the Resolution No. 15 dated 7-3-1990 passed by respondent Rajula Nagar Panchayat, reverting the petitioner to the post of daily wage Clerk from the post of regular Permanent Clerk. It is stated in the petition that the petitioner was first appointed as daily wage Clerk on 16-2-1983. The said appointment has been made permanent by an order dated 17-2-1984, and subsequently the said appointment has been made on regular basis from 1-3-1984. Subsequently some other persons were appointed to the post of Clerk on regular basis. It is submitted in the petition that even though the juniors who were appointed to the post of Clerk were retained in their post, petitioner has been reverted by the respondents from regular Clerk to the post of daily wage Clerk by the order dated 24/25-4-1990.

It is submitted by learned counsel for the respondent Mr. Y.V. Shah that, the appointment of the petitioner to the post of Clerk has been made subject to the approval of the Rajula Nagar Panchayat, the Respondent No.1. It is submitted by learned counsel for the respondent Nagar Panchayat that the respondent Nagar Panchayat did not approve the regular appointment of the petitioner on the post of Clerk and therefore the petitioner has been reverted to his original post of daily wage clerk. It is consequently submitted by learned counsel for the respondent that, there is no illegality in the order passed by respondent no.1 in reverting the petitioner from the post of Clerk to his original post of daily wage clerk in view of the fact that the respondent Nagar Panchayat did not approve the regular appointment of the petitioner. It is true that when the appointment was made subject to approval of certain authority and if that authority do not approve the appointment, then, there is no illegality in reverting the petitioner to his original post. In absence of approval of the authority, who is competent to make appointment, if a person is reverted to his original post, there can be no illegality. Accordingly I do not find any illegality in the resolution passed by the respondent Nagar Panchayat in reverting the petitioner to his original post, that is from the post of Clerk to the post of daily wage Clerk, in view of the fact that the respondent Nagar Panchayat has not approved the

appointment of the petitioner to the post of permanent Clerk. Consequently I do not find any merit in the petition. This petition is accordingly dismissed. Rule discharged. Interim relief if any shall stand vacated. I make no order as to costs.

Dt: 10-4-2000

(P.K. Sarkar, J)

/vgn